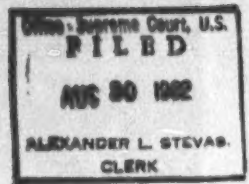


82-5378



NO. 82-

IN THE
SUPREME COURT OF THE UNITED STATES
SEPTEMBER TERM, 1982

=====

NATHAN BROWN,
PETITIONER
VS.
ZANT
~~STATE OF GEORGIA,~~
RESPONDENT.

=====

PETITION FOR WRIT OF CERTIORARI TO
THE SUPREME COURT OF GEORGIA

=====

Ronnie K. Batchelor
Attorney for Petitioner
4179 Memorial Drive
Decatur, Georgia 30032
(404) 296-1500

NO. 82-

IN THE
SUPREME COURT OF THE UNITED STATES
SEPTEMBER TERM, 1982

NATHAN BROWN,

PETITIONER

VS.

WALTER ZANT, Superintendant
Georgia Diagnostic and Classification Center,

RESPONDENT.

PETITION FOR WRIT OF CERTIORARI TO
THE SUPERIOR COURT OF BUTTS COUNTY

IN THE
SUPREME COURT OF THE UNITED STATES
SEPTEMBER TERM, 1982
NO. 82-

NATHAN BROWN,

PETITIONER

VS.

WALTER ZANT, Superintendent
Georgia Diagnostic and
Classification Center,

RESPONDENT

AFFIDAVIT OF COUNSEL TO SUPPORT MOTION TO
PROCEED IN FORMA PAUPERIS

I, RONNIE K. BATCHELOR, being first duly sworn according to law, say in support of the application of Petitioner, NATHAN BROWN, to proceed without being required to repay costs or fees:

1.

I am counsel for Petitioner Brown and I have agreed to represent him without fee or reimbursement of any kind.

2.

Petitioner Brown is presently on death row in Jackson, Georgia, under the custody of the State of Georgia.

3.


Counsel was appointed to represent Petitioner at his trial and on direct appeal. This counsel has abandoned Petitioner Brown.

4.

I am informed and believe because of his poverty, Mr. Brown is unable to pay costs and give me security for same. I have been counsel for Mr. Brown since November, 1981, and believe him to be totally indigent.

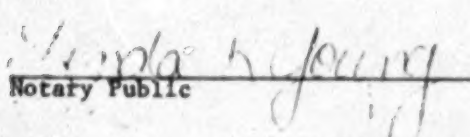
5.

Because of the urgency in this case, there is insufficient time to obtain an original Petitioner's pauper's affidavit. However, such an affidavit was presented for the Supreme Court of Georgia, a copy of which is attached.



RONNIE K. BATCHELOR
Attorney for Petitioner

Sworn to and subscribed before
me, this 30th day of August, 1982.



Notary Public

My Commission Expires:

Notary Public, Georgia, State of Leno
My Commission Expires: Sept. 15, 1983

IN THE SUPERIOR COURT OF BUTTE COUNTY

STATE OF GEORGIA

NATHEN BROWN,

Petitioner,

-v-

WALTER D. ZANT, Warden,
Georgia Diagnostic and
Classification Center,

Respondent.

AFFIDAVIT IN SUPPORT OF MOTION TO PROCEED
ON APPEAL IN FORMA PAUPERIS

I, NATHEN BROWN, being first duly sworn, depose and say that I am the Petitioner in the above-entitled case; that in support of my motion to proceed on appeal without being required to prepay fees, costs, or give security therefor, I state that because of my poverty I am unable to pay the cost of said proceeding or to give security therefor; and that I believe I am entitled to redress.

I further swear that the responses which I have made to the questions and instructions below relating to my ability to pay the cost of prosecuting the appeal are true.

1. Are you presently employed? Yes ☐ No ☒
 - a. If the answer is yes, state the amount of your salary or wages per month and give the name and address of your employer.
 - b. If the answer is no, state the date of your last employment and the amount of the salary and wages per month which you received.
2. Have you received within the last twelve months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividend, or other source? Yes ☐ No ☒

a. If the answer is yes, describe each source of income, and state the amount received from each during the past twelve months.

3. Do you own any cash or checking or savings account?

Yes _____ No ☒

a. If the answer is yes, state the total value of the items owned.

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? Yes _____ No ☒

a. If the answer is yes, describe the property and state its approximate value.

5. List the persons who are dependent upon you for support and state your relationship to those persons. None ☒

I understand that a false statement or answer to any question in this affidavit will subject me to penalties for perjury.

Nathen Brown

NATHEN BROWN

STATE OF GEORGIA

COUNTY OF BUTTS

SUBSCRIBED AND SWORN TO

Before me this the 19 day of November, 1981.

Claron Roggmore
Notary Public

My Commission expires:

9-20-83

NO. 82-

IN THE
SUPREME COURT OF THE UNITED STATES
SEPTEMBER TERM, 1982

NATHAN BROWN,

PETITIONER

VS.


WALTER ZANT, Superintendent
Georgia Diagnostic and Classification Center,

RESPONDENT.

MOTION FOR LEAVE
TO PROCEED IN FORMA PAUPERIS

Petitioner, Nathan Brown, by his undersigned counsel,
asks leave to file the attached petition for Writ of Certiorari
without prepayment of costs and to proceed in forma pauperis.
Petitioner's affidavit of indigency is attached hereto.

Respectfully submitted,



RONNIE K. BATCHELOR
Attorney for Petitioner

4179 Memorial Drive
Decatur, Georgia 30032
404/296-1500

NO. 82-
IN THE
SUPREME COURT OF THE UNITED STATES
SEPTEMBER TERM, 1982

NATHAN BROWN,
PETITIONER

VS.

WALTER ZANT, Superintendant,
Georgia Diagnostic and Classification Center,
RESPONDENT.

ORDER GRANTING LEAVE TO PROCEED
IN FORMA PAUPERIS IN DISTRICT COURT

The verified Petition and exhibits of Nathan Brown, for a Petition for a Writ of Certiorari and for leave to proceed in forma pauperis having been presented to the Court, together with an Affidavit pursuant to 28 U.S.C. §1915 (1964), and it appearing from the affidavit that Petitioner is a person authorized by §1915 to proceed in forma pauperis, it is

ORDERED that Petitioner be and hereby is granted leave to proceed in this Court without prepayment of fees or costs or security therefor.

DATED: _____, 1982.

JUDGE, UNITED STATES SUPREME COURT

NO. 82-

IN THE

SUPREME COURT OF THE UNITED STATES

SEPTEMBER TERM, 1982.

NATHAN BROWN,

PETITIONER

VS.

STATE OF GEORGIA,

RESPONDENT.

PETITION FOR WRIT OF CERTIORARI TO

THE SUPREME COURT OF GEORGIA

Petitioner, Nathan Brown, respectfully prays that a writ of certiorari issue to review the judgment of the Supreme Court of Georgia in this case. Citation of Opinion: Brown v. State of Georgia, 247 Ga. 298, 275 S.E. 2d 52 (1981).

PROCEEDINGS OF THE CASE

1. On May 31, 1979, Petitioner was convicted in the Superior Court of Taliaferro County of murder, armed robbery, two counts of kidnapping, aggravated assault and possession of a firearm during the commission of an attempt to commit a crime.

2. On February 24, 1981, the Supreme Court of Georgia, on appeal, set aside Petitioner's death sentence for armed robbery and remanded with the direction that he be resentenced to life imprisonment in that count. The court also reversed Petitioner's conviction of aggravated assault as an included offense of kidnapping with bodily injury. All other aspects of conviction and sentence were affirmed. Brown v. State, 244 Ga. 298 (1981).

3. On June 9, 1981, Brown filed a timely Petition for Certiorari in the Supreme Court of the United States which denied said petition. Justices Brennan and Marshall dissenting. Docket No. 80-6839.

4. On remittur from the Supreme Court of Georgia, Petitioner's execution date was set for January 29, 1982.

5. A Petition for Writ of Habeas Corpus was filed in the Superior Court of Taliaferro County and the execution stayed by the Court on January 26, 1982.

6. The Superior Court of Taliaferro County, on April 16, 1982, denied the petition for Writ of Habeas Corpus.

7. Notice of Appeal was filed on May 17, 1982. The Supreme Court of Georgia denied the application for a certificate of probable cause to appeal on June 2, 1982.

CONSTITUTIONAL AND STATUTORY PROVISIONS

This case involves the Eighth and Fourteenth Amendments to the Constitution of the United States and Ga. Code Ann. §27-2534.1(b)(7), which provides in relevant part:

In all cases of other offenses for which the death penalty may be authorized, the judge shall consider, or he shall include in his instructions to the jury for it to consider, any mitigating circumstances otherwise authorized by law and any of the following statutory aggravating circumstances which may be supported by the evidence:

* * *

(7) The offense of murder . . . was outrageously and wantonly vile, horrible, or inhuman in that it involved torture, depravity of mind, or aggravated battery to the victim.

STATEMENT OF THE CASE

On the night of July 26, 1978, the service station where Henry Phillips worked, in Taliaferro County, Georgia, was robbed by the petitioner and his-codefendants, Judson Ruffin and Jose High. Petitioner, Nathan Brown, participated

in the robbery of the gas station, however, Brown did not have a gun at this time, nor did he make any threats or threatening gestures to Henry Phillips or his son, Bonnie Bullock.

Phillips and his 11-year old son, Bonnie Bullock, were kidnapped and taken to a deserted road. There, Henry Phillips and Bonnie Bullock were told to lie face down on the ground in front of their assailant's automobile. Bonnie Bullock was shot in the head and died instantly. Henry Phillips survived gun wounds to the head and arm.

The only evidence adduced at trial connecting Petitioner with the offense was the direct testimony of Henry Phillips and the confession of Petitioner, Nathan Brown, which was introduced over the objection of the defendant. This evidence revealed that the only contact petitioner had with either victim came when Henry Phillips got out of the trunk of the car and grabbed for his son. Nathan Brown poked Mr. Phillips in the stomach with a shotgun, telling him to get back. (R. 164, 185). Petitioner did nothing further to either victim during the entire transaction. There is no evidence from the testimony of Mr. Phillips, from that of the ballistic witnesses, or from petitioner's confession that Henry Phillips or Bonnie Bullock were shot by a shotgun. In fact, the petitioner was in back of the car looking for a rope to tie up the victims when they were shot by his co-defendants.

At trial, the Prosecutor relied heavily on a conspiracy theory in convincing the jury to convict the petitioner of murder. In supporting the conspiracy argument, it was pointed out that one of the co-defendants stated that the witnesses should be killed. However, the petitioner, Brown, did not take his co-defendants seriously, and in fact, believed that the witnesses, Phillips and Bullock, were taken to the deserted road to be tied and left, in order to allow for greater "get-a-way"

time. This is supported by Brown's actions at the scene of the murder, wherein, he went to the rear of the car to secure a rope. It was while he was getting the rope that the victims were shot. It can be easily inferred that the co-defendants wanted Brown out of the way (getting the rope) so he would not interfere with their shooting of the victims.

Petitioner received court appointed counsel to represent him. His counsel at trial and on appeal to the Georgia Supreme Court was also appointed to represent his co-defendants Jose High and Judson Ruffin. Jose High later retained independent counsel. Judson Ruffin was convicted and sentenced to death in a separate trial. The Georgia Supreme Court affirmed in Ruffin v. State, 243 Ga. 95, 252 S.E. 2d 472 (1979).

The jury returned a verdict of guilty on all six indictments. In its instruction to the jury during the sentencing phase of the trial, the trial court charged the jury that in order to impose the death penalty they must find the existence of at least one of the statutory aggravating circumstances under §(b)(7). He also told them it was within their discretion to consider mitigating circumstances and grant life imprisonment. The judge did not define or explain the statutory terms of "outrageously or wantonly vile, horrible or inhuman in that involved torture, depravity of mind, or aggravated battery to the victim." The jury returned a sentence of death on four of the six counts, finding the aggravating circumstances of torture or depravity of mind.

The Georgia Supreme Court held that the murder of the victim was sufficiently outrageous or wantonly vile so as to distinguish it from ordinary murder for which the death penalty is not appropriate. It thereby affirmed the finding of aggravating circumstances as required by statute. Despite the absence of any evidence of torture of either victim, depravity of mind, or serious physical abuse, the Court below upheld petitioner's death sentence upon a finding of serious psychological abuse

of the deceased, Bonnie Bullock. Serious psychological abuse was based upon the fact that the victim asked petitioner's co-defendant not to kill him, and the victim's age and physical characteristics.

REASON FOR GRANTING THE WRIT

THE COURT SHOULD GRANT CERTIORARI TO CONSIDER WHETHER THE IMPOSITION OF THE DEATH PENALTY UPON A FINDING OF AGGRAVATING CIRCUMSTANCES THAT THE OFFENSE WAS "OUTRAGEOUSLY OR WANTONLY VILE, HORRIBLE, OR INHUMAN IN THAT IT INVOLVED TORTURE, DEPRAVITY OF MIND, OR AGGRAVATED BATTERY TO THE VICTIM" AS APPLIED TO PETITIONER WHO PERSONALLY WAS NOT A TRIGGERMAN, DID NOT INTEND TO KILL, NOR ATTEMPT TO KILL, AND DID NOT HIMSELF ENGAGE IN ANY AGGRAVATING CIRCUMSTANCES VIOLATES CONSTITUTIONAL STANDARDS FOR CAPITAL SENTENCING ESTABLISHED BY THE EIGHTH AND FOURTEENTH AMENDMENTS.

The Court, in its decision in Enmund v. Florida, ____ S.Ct. ____ (1982) asked itself "whether the Eighth Amendment permits imposition of the death penalty on one such as Enmund who aids and abets a felony in the course of which a murder is committed by others but who does not himself kill, attempt to kill, or intend that a killing take place or that lethal force will be enforced." This court must again ask this question, but now, as it applies to the Petitioner, Nathan Brown.

Petitioner was sentenced to death for a murder which he did not commit and under aggravating circumstances which are not attributable to him. His conviction and death sentence rest solely on a felony murder theory. As a perpetrator of an underlying felony, he was found equally guilty of the murder committed by a co-perpetrator. The trial court and the Georgia Supreme Court found petitioner vicariously liable for the murder of

Bonnie Bullock even though the Petitioner did not intend his death.

In affirming petitioner's death sentence, the Georgia Supreme Court imposed a penalty which is disproportionate to the crime. Petitioner possessed no specific intent to cause the death of Bonnie Bullock. Brown's participation in the felony underlying the felony murder conviction does not constitute an offense so outrageously or wantonly vile, horrible or inhuman so as to authorize the imposition of the death penalty nor does it meet this court's test as enunciated in Enmund v. Florida, supra.

This court's exhaustive treatment of the history and applicability of the death penalty and its analysis of all the states' death penalty statutes in Enmund is so complete as to not warrant repetition here. However, certain elements of this treatment, as they can be applied to the case at bar, require such repetition. The Eighth Amendment's Cruel and Unusual Punishment clause is, in part, directed "against all punishments which by their excessive length or severity are greatly disproportioned to the offenses charged." Weems v. United States, 217 U.S. 349, 371 (1910), quoting O'Neil v. Vermont, 144 U.S. 323, 339-340 (1892). The rape of an adult woman, which resulted in the imposition of the death penalty was held disproportionate and excessive in Coker v. Georgia, 433 U.S. 584 (1977). In Coker, and as repeated in Enmund, this court stressed that its judgment "should be informed by objective factors to the maximum possible extent." In the analysis in Enmund, it was shown that most state statutes do not allow for the imposition of the death penalty in felony murder cases and society itself has rejected such a notion. Consistent with these findings, this case stands anathema to

all others where the death penalty was imposed in Georgia. A summary of the death penalty cases from the Supreme Court of Georgia shows that in each one, the defendant sentenced to death was the individual who "pulled the trigger". (Summary of cases attached as Exhibit "A").

This court, in stressing its reliance on objective factors, correctly concluded that the focus of the inquiry must be on petitioner's culpability and not those who committed the killing. Enmund, supra. There are many similarities between Earl Enmund and Nathan Brown. Both were accomplices to a robbery and both were convicted of murder inflicted by co-defendants. Both Earl Enmund and Nathan Brown were separated from the immediacy of the murder and neither intended a death in the commission of their crimes. What separates Nathan Brown from Earl Enmund is that Petitioner took part in a kidnapping so that the resulting murder took place away from the scene of the initial felony. However, it was not this fact that the jury relied on for its finding of aggravating circumstances, rather the jury felt the victim, a child, was psychologically tortured. The facts established that Petitioner said nothing to either victim during the entire encounter other than telling Henry Phillips to get back when he grabbed for his son. He did not torment Bonnie Bullock in any way. Furthermore, Bonnie Bullock pleaded for his life to petitioner's co-defendant and was killed when Petitioner was at the car securing a rope.

Clearly, it was the emotional impact on the jury, of a child pleading for its life and subsequently being murdered, that resulted in the imposition of the death penalty. This inhumanity was attributed to the Petitioner through a purely emotional association by the jury, vicarious liability.

This result does not, under any interpretation, square

with this court's "objective factors" criteria of Enmund. Additionally, the facts of this case run in direct contradiction to the test for imposition of the death penalty enunciated in Enmund. The facts establish that Brown had no intention of participating in or facilitating a murder. Brown's expectations, intentions and actions demonstrate the inappropriateness of death penalty in his case, even as a form of retribution.

Petitioner has suffered the greatest penalty imposed by law - - death. The Georgia Supreme Court affirmed Petitioner's death sentenced based on his conviction of a felony murder, wherein petitioner did not kill the victim, did not intend the death of the victim, and was not in the immediate vicinity of the murder scene. On this basis, the Court should grant the petition for writ of certiorari.

CONCLUSION

For the foregoing reasons, the writ of certiorari should be granted.

Respectfully submitted,



RONNIE K. BATCHELOR
Attorney for Petitioner

4179 Memorial Drive
Decatur, Georgia 30032
404/296-1500

EXHIBIT "A"

SUMMARIES OF DEATH PENALTY CASES FROM THE SUPREME COURT OF GEORGIA

Moore v. State, 213 S.E. 2d 829.

William Neal Moore was convicted of murder and armed robbery; death sentence affirmed by Supreme Court. Moore had been a member of the U.S. Army and former military policeman. During the service, he met George Curtis, nephew of victim, Fredger Stapleton. Curtis told Moore of his uncle's money which they later planned to steal. On April 2, 1974, Curtis and Moore had been drinking, they went to Stapleton's house, left when they found an inside door locked. Moore later returned alone, and while entering a bedroom window, Stapleton fired a shotgun at him. Moore fired four or five shots in his .38 caliber pistol at Stapleton, who died from two bullet wounds in the chest. Moore took two wallets and the shotgun.

Moore was 23 years old and was not an experienced criminal. He did everything he could do after being caught, in regard to cooperating with officials, providing true statements and pleading guilty.

Mitchell v. State, 214 S.E. 2d 900.

William Mitchell was convicted of murder, aggravated battery, and armed robbery; death sentence upheld by Supreme Court. On August 11, 1974, Mitchell entered an IGA convenience store, which has just been opened by Mrs. James Carr and her fourteen year old son, Christopher. He pulled a pistol on Mrs. Carr and demanded all the money, which included \$150.00 from the cash register, \$15.00 in her purse and money from her son. Mitchell forced Chris and Mrs. Carr at gun point inside the cooler, where he shot Chris twice, causing his death and Mrs. Carr four times. During this time, two young boys had entered the store, and Mitchell snapped his gun at them several times, but it would not fire.

Mitchell was 22 years old, had attended college two and one-half years, could read and write the English language. He

pleaded guilty to the charges.

Goodwin v. State, 223 S.E. 2d 703.

Terry Lee Goodwin was convicted for murder and armed robbery, death sentence affirmed. On April 9, 1975, Goodwin was playing pool at the Snack and Rack Parlor with Brad Studdard, a seventeen year old employee at the parlor. They left together and while driving around drank a six pack of beer and smoked marijuana. During a stop, Goodwin demanded Studdard's automobile while holding a butcher knife on him. When Studdard fled into the woods, Goodwin chased him down and stabbed him eighteen times. Goodwin later made phone calls to Studdard's home to inquire about the reward for Studdard's disappearance.

Goodwin had no prior criminal record. He pled not guilty based on mental retardation, which made him not able to understand and effectively waive rights against self-incrimination. He was eighteen years of age.

Moore v. State, 243 S.E. 2d 1.

Carzell Moore was convicted of armed robbery, rape and murder. The death penalty for both rape and murder was affirmed. On December 12, 1976, Moore and Roosevelt Green entered the Majik Market, which was being manned by Theresa Carol Allen, a part-time employee. Moore carried a high-powered -- 30.06 rifle -- and demanded all the money from Allen, which amounted to approximately \$446.00. After robbing the store, they forced Allen to leave with them in her car. Both Green and Moore raped Miss Allen, who was only eighteen years old. While Green went to get gas, Moore shot Miss Allen in the abdomen, with a bullet also passing through her arms, which were crossed on her stomach, and then again in the face. Upon Green's return, they tossed her body into the bushes, which was found two days later lying in the wooded, grassy area.

Moore and Green had met in prison. Moore denied being at the scene at the time of crime.

Dobbs v. State, 224 S.E. 2d 3.

Wilburn Wiley Dobbs was convicted of murder, armed robbery and aggravated assault; death sentence affirmed. On December 14, 1973, Dobbs, along with two others, Walter Lee Harris and Charles Burke, drove to a grocery store and gas station owned by Roy Sizemore. Harris asked Sizemore for a gas can so Dobbs could slip in the back door with his sawed-off shotgun. They demanded money from the cash register, took Sizemore's wallet, and a shopper's purse, all totaling \$210.00. Dobbs then knocked Sizemore to the floor and fired a shotgun blast into his stomach, killing him. He knocked the shopper unconscious with the butt of his shotgun, and when a delivery salesman entered, he fired a shot at him.

Gibson v. Georgia, 226 S.E. 2d 63.

Samuel Gibson, III, was convicted of murder and rape with the death penalty for both. The Supreme Court upheld the death sentence in the murder charge, but the case was remanded for a resentencing regarding the rape offense. Joan Delight Bryan was alone with her daughter in a farmhouse on April 10, 1975, when Gibson came to her home to inquire about renting a trailer. After showing him the trailer, Gibson asked Bryan for a glass of water, so she let him into the living room. Gibson said he grabbed her, causing her to become hysterical. After unsuccessfully trying to get her rifle, she grabbed for his gun, and he shot her. Gibson then became frightened, so he tried to make it look like rape. Bryan was found with two lacerations and a .32 caliber wound in her head. There was evidence of resistance and sexual intercourse and sodomy.

Gibson stated he was inquiring about the trailer because he wanted to move from his foster mother's home, however, he

had no job nor any money. Bryan's young daughter witnessed the shooting of her mother, then as Gibson left, he also slapped the child.

Potts v. State, 243 S.E. 2d 510. (Two cases).

Jack Howard Potts was convicted of aggravated assault, kidnapping with bodily injury, two counts of armed robbery and murder. The death sentence for kidnapping and murder was affirmed. The death penalty decision was remanded for re-sentencing in one count of armed robbery. Potts was involved in a continuous inter-county crime spree.

Potts and Norma Blackwell persuaded Eugene Robert Snyder to drive them to Marietta, Georgia, from Shake Rag Community. While Potts was driving, he shot Snyder through the left ear, so Snyder pulled the car keys out of the ignition and requested to go to the hospital. When Potts shot him again in the nose and dragged him out of the truck, Snyder acted unconscious. Since Potts could not find the keys, he walked to the nearby Gurley home where Mr. Gurley's son in law, Michael D. Priest was visiting. Potts said that there had been an accident, so Priest offered a ride to him. Upon arriving at the scene, Potts ordered Priest to drive them to Marietta. On the return trip, Potts shot and killed Priest and then robbed him.

The events all occurred on May 8, 1975; however, in two separate counties. Potts pleaded not guilty by reason of insanity. He had a previous record of robbery, and assault with intent to murder.

Collins v. State, 253 S.E. 2d 729.

Roger Collins was convicted for rape and murder; the fifteen years imprisonment and death penalty were affirmed by the Supreme Court. On August 6, 1977, Rogers, along with William Durham and Johnny Styles was drinking and carousing. Upon seeing Dolores Luster, Collins called her over to his car

and asked her to engage in sexual intercourse. She declined but accepted an invitation to drive her home. Instead, Durham drove the car to a pecan orchard and stopped. Luster told them she was pregnant and had a venereal disease. Collins said if he caught the disease he was going to do something to her. Durham pulled Luster out of the car, and when he began to remove her clothes, she proceeded to remove them herself. During this time, Collins was removing the back seats from the car. Collins, Durham and Styles took turns raping her. Miss Luster kept screaming, "Why me!" Durham was brandishing his knife and stuck it beside her head when he had intercourse with her. Collins and Durham began taking Luster further into the pecan orchard, when Collins returned and got his jack out of the trunk. Collins hit Luster in the head and then gave the jack to Durham. Miss Luster's death resulted from massive head injuries caused by multiple blows of great force.

Testimony was allowed concerning the statement by Collins that he had killed several other people. Collins' argument that his death penalty should not be upheld because his co-defendant, Durham, was only given a life sentence, was without merit.

IN THE
SUPREME COURT OF THE UNITED STATES
SEPTEMBER TERM, 1982

NO. 82-

NATHAN BROWN,
PETITIONER
VS.
STATE OF GEORGIA,
RESPONDENT

ON PETITION FOR WRIT
OF CERTIORARI TO THE SUPREME COURT OF GEORGIA

CERTIFICATE OF TIMELY MAILING

I, Ronnie K. Batchelor, a member of the Bar of the Supreme Court of the United States, hereby certify and swear that I personally deposited in a United States Post Office on August 30, 1982, with first-class postage pre-paid and properly addressed to the Clerk of this Court, within the time for filing, an envelope containing the Petition for Writ of Certiorari on the above-styled case.

[Signature]

RONNIE K. BATCHELOR
Attorney for Petitioner

Sworn to and Subscribed
before me, this 30th day of
August, 1982.

[Signature]

Notary Public

Notary Public, Georgia, State at Large
My Commission Expires Sept. 30, 1983

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the copies of the within and foregoing to the Attorney General by placing true and correct copies thereof in the United States Mail, first class postage prepaid, addressed to the Attorney General as follows:

Michael J. Bowers
Attorney General
Room 132
Judicial Building
Capitol Square
Atlanta, Georgia 30334

This 30th day of August, 1982.



RONNIE K. BATCHELOR
Attorney for Petitioner